

MENTAL HEALTH (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE & A SUMMARY OF THE ACT

Part One – the 2003 Act

Section 35: Compulsory treatment of prisoners

Amendment of **schedule 2, part 2**

104. Part 2 of schedule 2 to the 2003 Act concerns the organisation and administration of the Tribunal. In particular paragraph 7(4) of schedule 2 provides that the convenor of proceedings before the Tribunal in relation to a patient subject to a compulsion order and a restriction order, a hospital direction (HD) or a transfer for treatment direction (TTD), must be the President of the Tribunal or a member of the Tribunal who serves as a sheriff convenor, unless those proceedings relate solely to the appointment of a named person in respect of the patient, under section 255 and 257 of the 2003 Act.
105. **Section 35** amends paragraph 7 to provide, for proceedings relating to an application for a compulsory treatment order (CTO) in respect of a patient subject to a TTD or an HD, that the convenor does not have to be the President, or a member of the Tribunal who serves as a sheriff convenor. This is in addition to the existing exception for proceedings relating solely to the appointment of named persons.
106. The effect of this amendment is that the default provision in sub-paragraph (3) of paragraph 7 will apply to proceedings relating to an application for a CTO in respect of patients subject to a TTD or an HD, with the result that the convenor of the Tribunal will have to be either the President or a legal member selected from the panel mentioned in paragraph (1)(1)(a) of Schedule 2.

New paragraph 1A, **schedule 3**

107. Chapter 1 of Part 7 of the 2003 Act is concerned with the application for and making of compulsory treatment orders (CTOs). Schedule 3 to the 2003 Act makes a number of modifications to Chapter 1 of Part 7 insofar as it applies to patients who become subject to a CTO whilst already subject to a HD or TTD.
108. **Section 35(3)** adds a new paragraph to schedule 3, with the result that when a patient is subject to a HD or a TTD, and an application is made for a CTO, notice of the application requires to be given to the Scottish Ministers, in addition to the existing requirement to give notice to the patient, the patient's named person and the Commission.